



February 17, 2006

ENGROSSED SENATE BILL No. 232

DIGEST OF SB 232 (Updated February 13, 2006 4:10 pm - DI 107)

Citations Affected: IC 8-2; IC 33-28.

Synopsis: Jury service exemptions. Eliminates automatic exemptions from jury service. Permits a person called for jury service to receive one deferral for up to one year if the juror selects an alternate date and the deferral is necessary due to hardship, extreme inconvenience, or necessity. Protects a person called for jury service from being subjected to adverse employment actions. Prohibits employers from requiring or requesting employees to use annual vacation or sick leave for jury service. Repeals a provision concerning jury service exemptions in Lake County.

Effective: July 1, 2006.

Gard

(HOUSE SPONSORS — FOLEY, MAYS, KOCH, THOMAS)

January 9, 2006, read first time and referred to Committee on Judiciary.
January 26, 2006, amended, reported favorably — Do Pass.
January 30, 2006, read second time, ordered engrossed. Engrossed.
February 1, 2006, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 7, 2006, read first time and referred to Committee on Judiciary.
February 16, 2006, reported — Do Pass.

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ES 232—LS 6185/DI 69+



February 17, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 232

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-2-15-9 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2006]: Sec. 9. ~~It shall be the duty of All~~
3 ~~persons, companies, or corporations keeping, having, or maintaining~~
4 ~~any public ferries across any stream to and from any point within this~~
5 ~~state; to in Indiana shall~~ cause the banks of the river or creek to be dug
6 sufficiently low and kept in good passable order for the passage of ~~man~~
7 ~~and horse; persons, horses, and~~ wagons and other vehicles. ~~and such~~
8 ~~ferry-keepers and persons employed in attendance at such ferry shall~~
9 ~~not be compelled to serve on juries or perform military duty.~~
10 SECTION 2. IC 33-28-4-8, AS AMENDED BY P.L.1-2005,
11 SECTION 216, IS AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) ~~A person shall be excused~~
13 ~~from acting as a juror if the person:~~
14 (1) is at least sixty-five (65) years of age;
15 (2) is a member in active service of the armed forces of the United
16 States;
17 (3) is an elected or appointed official of the executive, legislative,

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or judicial branches of government of:

(A) the United States;

(B) Indiana; or

(C) a unit of local government;

who is actively engaged in the performance of the person's official duties;

(4) is a member of the general assembly who makes the request to be excused before being sworn as a juror;

(5) is an honorary military staff officer appointed by the governor under IC 10-16-2-5;

(6) is an officer or enlisted person of the guard reserve forces authorized by the governor under IC 10-16-8;

(7) is a veterinarian licensed under IC 15-5-1.1;

(8) is serving as a member of the board of school commissioners of the city of Indianapolis under IC 20-25-3-3;

(9) is a dentist licensed under IC 25-14-1;

(10) is a member of a police or fire department or company under IC 36-8-3 or IC 36-8-12; or

(11) would serve as a juror during a criminal trial and the person is:

(A) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or

(B) the spouse or child of a person described in clause (A);

and desires to be excused for that reason:

(b) (a) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

(1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

(4) The person is under a sentence imposed for an offense.

(5) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(6) The person has had rights revoked by reason of a felony

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conviction and the rights have not been restored.

(b) A person scheduled to appear for jury service has the right to defer the date of the person's initial appearance for jury service one (1) time upon a showing of hardship, extreme inconvenience, or necessity. The court shall grant a prospective juror's request for deferral if the following conditions are met:

(1) The prospective juror has not previously been granted a deferral.

(2) The prospective juror requests a deferral by contacting the jury commissioner:

(A) by telephone;

(B) by electronic mail;

(C) in writing; or

(D) in person.

(3) The prospective juror selects another date on which the prospective juror will appear for jury service that is:

(A) not more than one (1) year after the date upon which the prospective juror was originally scheduled to appear; and

(B) a date when the court will be in session.

(4) The court determines that the prospective juror has demonstrated that a deferral is necessary due to:

(A) hardship;

(B) extreme inconvenience; or

(C) necessity.

(c) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

(d) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(e) The same petit jurors may be used in civil cases and in criminal cases.

(f) A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

(g) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of the right to serve on a jury under this section and except as provided in subsections (h), (i), and (l), a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may not possess a firearm:

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(1) after the person is no longer under a sentence imposed for an offense; or

(2) after the person has had the person's rights restored following a conviction.

(h) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

(1) Whether the person has been subject to:

(A) a protective order;

(B) a no contact order;

(C) a workplace violence restraining order; or

(D) any other court order that prohibits the person from possessing a firearm.

(2) Whether the person has successfully completed a substance abuse program, if applicable.

(3) Whether the person has successfully completed a parenting class, if applicable.

(4) Whether the person still presents a threat to the victim of the crime.

(5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to complete a specified condition under subsection (i) or whether the person has committed a subsequent offense.

(i) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(j) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(k) A person has not been convicted of a crime of domestic violence for purposes of subsection (h) if the conviction has been expunged or if the person has been pardoned.

(l) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on post-conviction review at the earlier of the following:

(1) At the time the prosecuting attorney states on the record that the charges that gave rise to the conviction will not be refiled.

(2) Ninety (90) days after the final disposition of the appeal or the post-conviction proceeding.

SECTION 3. IC 33-28-4-8.3 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 8.3. (a) If a person:**

- (1) is summoned to serve as a juror; and**
- (2) notifies the person's employer of the jury summons within a reasonable period:**

- (A) after receiving the jury summons; and**

- (B) before the person appears for jury service;**

the person's employer may not subject the person to any adverse employment action as the result of the person's jury service.

(b) An employee may not be required or requested to use annual vacation or sick leave for time spent:

- (1) responding to a summons for jury service;**
- (2) participating in the jury selection process; or**
- (3) serving on a jury.**

This subsection does not require an employer to provide annual vacation or sick leave to an employee who is not otherwise entitled to these benefits.

SECTION 4. IC 33-28-5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 18. (a)** The supervising judge or the jury commissioner shall determine solely on the basis of information provided on a juror qualification form or interview with a prospective juror whether the prospective juror is disqualified for jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form or electronic data processing facsimile and on the alphabetical list of names drawn from the master list.

(b) A person may not be automatically excused under this chapter. Upon request of a prospective juror, the supervising judge or jury commissioner shall determine on the basis of information provided on:

- (1) the juror qualification form;**
- (2) correspondence from the prospective juror; or**
- (3) an interview with the prospective juror;**

whether the prospective juror may be excused from jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form.

(c) A person who is not disqualified for jury service may be excused from jury service only ~~upon a showing of:~~

- ~~(1) undue hardship;~~
- ~~(2) extreme inconvenience; or~~
- ~~(3) public necessity;~~

~~until the time of the next drawing when the person is resummoned.~~
Appropriate records must be maintained by the jury commissioner to

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~~facilitate resummoning; in accordance with IC 33-28-4-8.~~

(d) Requests for excuse, other than those accompanying the return of the qualification form, must be made by the prospective juror in writing to the jury commissioner not later than three (3) days before the date when the prospective juror has been summoned to appear.

SECTION 5. IC 33-28-5-24.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 24.3. (a) If a person:**

(1) is summoned to serve as a juror; and

(2) notifies the person's employer of the jury summons within a reasonable period:

(A) after receiving the jury summons; and

(B) before the person appears for jury service;

the person's employer may not subject the person to any adverse employment action as the result of the person's jury service.

(b) An employee may not be required or requested to use annual vacation or sick leave for time spent:

(1) responding to a summons for jury service;

(2) participating in the jury selection process; or

(3) serving on a jury.

This subsection does not require an employer to provide annual vacation or sick leave to an employee who is not otherwise entitled to these benefits.

SECTION 6. IC 33-28-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 17. (a) The court or the jury commissioner shall determine solely on the basis of information provided on the juror qualification form or interview with the prospective juror whether or not the prospective juror is disqualified for jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form or electronic data processing facsimile and on the alphabetical list of names drawn from the master list.**

(b) A prospective juror is disqualified to serve on a jury if the prospective juror:

(1) is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county;

(2) is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;

(3) is incapable, by reasons of a physical or mental disability, of rendering satisfactory jury service; or

(4) has had the prospective juror's rights revoked by reason of a

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felony conviction and not restored.

(c) A person claiming a disqualification under subsection (b)(3) may be required to submit a physician's or an authorized Christian Science practitioner's certificate as to the disability. The court may subject the certifying physician or practitioner to inquiry.

(d) The court shall determine whether a prospective juror is qualified to serve, or, if disabled but otherwise qualified, whether the prospective juror could serve with reasonable accommodation. A person who is not eligible for jury service may not serve. To serve as a juror, a person must state under oath or affirmation that the person meets all the following requirements:

(1) The person is a citizen of the United States.

(2) The person is at least eighteen (18) years of age.

(3) The person is a resident of the summoning county.

(4) The person is able to read, speak, and understand the English language.

(5) The person is not suffering from a physical or mental disability that prevents the person from rendering satisfactory jury service.

(6) The person is not under a guardianship because of mental incapacity.

(7) The person has not had the right to vote revoked by reason of a felony conviction (unless the right to vote has been restored).

(8) If the trial is for a criminal case, the person is not a law enforcement officer.

(e) A person who has completed a term of jury service in the year preceding the date of the person's summons may claim exemption from jury service.

(f) The facts supporting juror disqualification or exemption must be recorded under oath or affirmation. A disqualification or an exemption is not authorized unless supported by the facts.

SECTION 7. IC 33-28-6-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 21. (a) Except as provided in ~~section 19~~ **section 17** of this chapter, a person may not be automatically excused under this chapter. The chief judge or jury commissioner, upon request of a prospective juror, shall determine on the basis of information provided on the juror qualification form, correspondence from the prospective juror, or interview with the prospective juror whether the prospective juror should be excused from jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form.

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(b) A person who is not disqualified for jury service may be excused from jury service **for not more than one (1) year only upon a showing of undue hardship, extreme inconvenience, or public necessity, until the time of the next drawing at which time the person will be resummoned in accordance with IC 33-28-4-8. The facts supporting an excuse from jury service under this section must be recorded under oath or affirmation. An excuse from jury service is not authorized unless supported by the facts.** Appropriate records shall be maintained by the jury commissioner to facilitate a resummoning.

(c) Requests for excuse, other than those accompanying return of the qualification form, shall be made by the prospective juror in writing to the presiding judge not later than three (3) weeks before the date upon which the prospective juror has been summoned to appear.

SECTION 8. IC 33-28-6-25.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 25.3. (a) If a person:**

(1) is summoned to serve as a juror; and

(2) notifies the person's employer of the jury summons within a reasonable period:

(A) after receiving the jury summons; and

(B) before the person appears for jury service;

the person's employer may not subject the person to any adverse employment action as the result of the person's jury service.

(b) An employee may not be required or requested to use annual vacation or sick leave for time spent:

(1) responding to a summons for jury service;

(2) participating in the jury selection process; or

(3) serving on a jury.

This subsection does not require an employer to provide annual vacation or sick leave to an employee who is not otherwise entitled to these benefits.

SECTION 9. IC 33-28-6-19 IS REPEALED [EFFECTIVE JULY 1, 2006].

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 232, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, between lines 1 and 2, begin a new paragraph and insert:

"(b) A person scheduled to appear for jury service has the right to defer the date of the person's initial appearance for jury service one (1) time upon a showing of hardship, extreme inconvenience, or necessity. The court shall grant a prospective juror's request for deferral if the following conditions are met:

(1) The prospective juror has not previously been granted a deferral.

(2) The prospective juror requests a deferral by contacting the jury commissioner:

(A) by telephone;

(B) by electronic mail;

(C) in writing; or

(D) in person.

(3) The prospective juror selects another date on which the prospective juror will appear for jury service that is:

(A) not more than one (1) year after the date upon which the prospective juror was originally scheduled to appear; and

(B) a date when the court will be in session.

(4) The court determines that the prospective juror has demonstrated that a deferral is necessary due to:

(A) hardship;

(B) extreme inconvenience; or

(C) necessity."

Page 3, line 2, reset in roman "(c)".

Page 3, line 2, delete "(b)".

Page 3, line 7, reset in roman "(d)".

Page 3, line 7, delete "(c)".

Page 3, line 10, reset in roman "(e)".

Page 3, line 10, delete "(d)".

Page 3, line 12, reset in roman "(f)".

Page 3, line 12, delete "(e)".

Page 3, line 14, reset in roman "(g)".

Page 3, line 14, delete "(f)".

Page 3, line 16, delete "(g),".

Page 3, line 16, reset in roman "(i),".

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Page 3, line 16, reset in roman "(l)",

Page 3, line 16, delete "(k)",

Page 3, line 23, reset in roman "(h)".

Page 3, line 23, delete "(g)".

Page 4, line 1, reset in roman "(i)".

Page 4, line 1, delete "(h)".

Page 4, line 3, reset in roman "(i)".

Page 4, line 3, delete "(h)".

Page 4, line 5, reset in roman "(j)".

Page 4, line 5, delete "(i)".

Page 4, line 8, reset in roman "(k)".

Page 4, line 8, delete "(j)".

Page 4, line 9, reset in roman "(h)".

Page 4, line 9, delete "(g)".

Page 4, line 11, reset in roman "(l)".

Page 4, line 11, delete "(k)".

Page 4, line 29, after "annual" delete ",",

Page 4, line 29, after "vacation" delete ",",

Page 4, line 33, after "annual" delete ",",

Page 4, line 34, after "vacation" delete ",",

Page 4, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 4. IC 33-28-5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18. (a) The supervising judge or the jury commissioner shall determine solely on the basis of information provided on a juror qualification form or interview with a prospective juror whether the prospective juror is disqualified for jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form or electronic data processing facsimile and on the alphabetical list of names drawn from the master list.

(b) A person may not be automatically excused under this chapter. Upon request of a prospective juror, the supervising judge or jury commissioner shall determine on the basis of information provided on:

- (1) the juror qualification form;
- (2) correspondence from the prospective juror; or
- (3) an interview with the prospective juror;

whether the prospective juror may be excused from jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form.

(c) A person who is not disqualified for jury service may be excused from jury service only upon a showing of:

- (1) undue hardship;

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(2) extreme inconvenience; or

(3) public necessity;

until the time of the next drawing when the person is resummoned. Appropriate records must be maintained by the jury commissioner to facilitate resummoning: **in accordance with IC 33-28-4-8.**

(d) Requests for excuse, other than those accompanying the return of the qualification form, must be made by the prospective juror in writing to the jury commissioner not later than three (3) days before the date when the prospective juror has been summoned to appear."

Page 5, line 5, after "annual" delete ",".

Page 5, line 5, after "vacation" delete ",".

Page 5, line 9, after "annual" delete ",".

Page 5, line 10, after "vacation" delete ",".

Page 6, line 32, strike "only upon a showing".

Page 6, line 33, strike "of undue hardship, extreme inconvenience, or public necessity."

Page 6, line 35, before "The" insert "**in accordance with IC 33-28-4-8.**".

Page 7, line 13, after "annual" delete ",".

Page 7, line 13, after "vacation" delete ",".

Page 7, line 17, after "annual" delete ",".

Page 7, line 18, after "vacation" delete ",".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 232 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 1.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 232, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

FOLEY, Chair

Committee Vote: yeas 9, nays 0.

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